

The Motion of Petitioners Service Employees International Union, Local 1000 and Yvonne Walker for Relief from Automatic Stay is GRANTED IN PART. Petitioners are granted relief from the automatic stay with respect to the prospective remedy that Respondents cease and desist from further implementation of furloughs under the Governor's Executive Orders.

Section 1110b of the Code of Civil Procedure provides that the Court may direct that the appeal not operate as a stay of execution if there is a showing of irreparable harm by the Petitioner. Section 1110b requires evaluation of irreparable harm to the petitioner/plaintiff; there is no authority to require a balancing of harms.

It is clear to the Court that irreparable harm will occur to the members of Petitioner's organization. Indeed, the irreparable harm to members of Petitioner's organization is significantly greater than the harm to the employees represented by the plaintiff in *Social Services Union v. County of San Diego* (1984) 158 Cal.App.3d 1126, wherein an order granting under Section 1110b was affirmed. The Court takes judicial notice, on its own motion, that a 15% loss of pay establishes irreparable harm to the employees represented by Petitioner SEIU. The declarations submitted in support of the motion clearly demonstrate this point.

It is likewise clear to the Court that irreparable harm will occur to California's taxpayers, including Petitioner Yvonne Walker. California taxpayers will suffer irreparable harm if the appeal operates as a stay because the taxpayers will not continue to lose the benefit of these employees' work for the Respondent Agencies, while still being required by this Court's judgment to pay wages for those days that the employees are improperly furloughed. Worse, if Respondents' representations are correct, the taxpayers may be required to use General Fund monies to pay the money owed to employees who were improperly furloughed, even though their salaries for days they work would ordinarily be paid with federal or Special Fund monies. (See, e.g. Declaration of Robert Garcia, filed March 12, 2010, at ¶7, pg. 4.)

As to relief from the automatic stay of enforcement on the retrospective, backpay portion of this Court's order, the irreparable harm has already occurred. While there is no doubt that there is continuing harm as a consequence of lost pay for prior furlough days, the Court declines to exercise its discretion to remove the effect of the automatic stay of enforcement as to back pay relief.